

S&H Form: (2/01)  
Attorney Docket No. 392.1290C

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Masao KAMIGUCHI, et al.

Application No.: 08/154,126

Group Art Unit: 2742

Filed: November 18, 1993

Examiner: D. Hunter

RECEIVED  
CENTRAL FAX CENTER

MAR 26 2004

OFFICIAL

For: PRESSURE WAVEFORM SETTING METHOD FOR INJECTION PRESSURE  
CONTROL AND AN INJECTION MOLDING MACHINE

Sir:

**PETITION TO CONFIRM THE STATUS OF FILE WRAPPER CONTINUATION  
APPLICATION AND ACCOMPANYING PETITION TO WITHDRAW THE HOLDING  
OF ABANDONMENT**

Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450  
Attn: Office of Petitions

Sir:

**INTRODUCTION**

It is understood that the U.S. PTO has no record of receiving 1) a second FWC application or 2) a Petition to Withdraw Holding of Abandonment. Accordingly, in this Petition, Applicant requests that it be confirmed that the records of the U.S. PTO reflect that the second FWC application, was not filed and, if appropriate, a decision be entered granting Applicant's Petition to Withdraw the Holding of Abandonment.

Serial No. 08/154,126

ACTIVITIES IN APPLICATION SERIAL NOS. 07/930,404 AND 08/154,126.

- 1) Application Serial No. 07/930,404 was filed September 14, 1992.
- 2) The Notification of Acceptance issued March 4, 1993.
- 3) An Office Action issued May 4, 1993.
- 4) An Amendment was filed August 6, 1993.
- 5) A first Office Action was issued August 18, 1993.
- 6) An Information Disclosure Statement was submitted August 6, 1993.
- 7) A Request for Filing A Continuation Application under 37 C.F.R. §1.62 was filed November 18, 1993.
- 8) An Office Action issued October 7, 1994 in Application Serial No. 08/154,126.
- 9) An Amendment and Petition and Fee for extension of time were filed February 7, 1995.
- 10) An Office Action issued April 24, 1995.
- 11) An Amendment was filed November 1, 1995.
- 12) A final Office Action was issued February 9, 1996. Claims 4-8 were allowed and claims 1-3 and 9-12 were rejected.
- 13) A Notice of Appeal and Petition and Fee for Extension of Time were filed August 16, 1996.
- 14) A Request for Reconsideration Under 37 C.F.R. §1.116 was filed August 16, 1996.
- 15) An Advisory Office Action issued August 29, 1996 maintaining the rejection of claims 1-3 and 9-12.

Serial No. 08/154,126

- 16) An Examiner Interview Summary Record (Exhibit F) issued June 19, 1997 referring to an interview on April 2, 1997, containing the notation "Applicants state that a FWC with a four month extension of time was filed on Dec. 10, 1997."
- 17) Applicant's counsel has been unable to locate the second FWC referred in paragraph 16, above, but submitted herewith is the declaration of Applicant counsel's Manager of the Docketing Department, Victor Del Rio, and docket cards for 392.1290/WMS and 392.1290CC/WMS (Exhibit A); papers from the W:/ drive comprising a request for filing a second FWC, a U.S. Patent and Trademark Office Check Request Form for the \$2,240 filing fee, a petition and fee for extension of time, and a new case number set up form (Exhibit B); and a copy of the docketing department's February 10, 1997 entries of papers to be filed that day (Exhibit C). The Docketing Department records reflect entry of information regarding a February 10, 1997 filing. The Docketing Department has not, however, been able to locate a date-stamped postcard or a signed copy of the second FWC request. Attached as Exhibit D, is a copy of the firm's checkbook showing issuance of a check in the amount of \$2,480.00 for the FWC application and a four month extension of time. The firm's Accounting Department has not found any corresponding cancelled check. Accordingly, counsel concludes that no second FWC request was filed - notwithstanding the existence of the documents noted above.
- 18) A notification of defective notice of appeal or defective brief issued June 19, 1997 (Exhibit E). The appeal was dismissed because the brief was not filed. The notice also indicated that the application was abandoned since a second FWC was filed.
- 19) A Request to Withdraw the Holding of Abandonment was filed May 15, 2001 (Exhibit G), advising that the application should be passed to issuance immediately under M.P.E.P. Section 1215.04 since claims 4-8 had been allowed. No response has been received from the U.S. PTO.

If this Petition is not granted, Applicant will file a Petition to Revive an Unintentionally Abandoned Application.

Serial No. 08/154,126

THE RELIEF SOUGHT

Based on the foregoing, Applicant requests the following:

First, it is requested that the U.S. Patent and Trademark Office review the evidence submitted herewith and confirm the status of the purported second FWC application. It appears that this application was not filed.

Second, if the U.S. PTO is satisfied by the accompanying evidence that the second FWC application was not filed, it is requested that Application Serial No. 08/154,126 be returned to active status and a Notice of Allowance issued for claims 4-8.

CONCLUSION

Applicant respectfully requests that the U.S. PTO review be expedited.

Respectfully submitted,

STAAS & HALSEY LLP

Date: September 12, 2003

By: 

James D. Halsey, Jr.  
Registration No. 22,729

1201 New York Ave, N.W., Suite 700  
Washington, D.C. 20005  
Telephone: (202) 434-1500  
Facsimile: (202) 434-1501

ATTACHMENTS

Declaration of Applicant's Counsel's  
Manager of the Docketing Department,  
Victor Del Rio

Exhibit A

Docket Card for Docket Nos.  
392.1290/WMS and 392.1290CC/WMS  
Relating to Filing of Second FWC

Serial No. 08/154,126

ATTACHMENTS (cont.)

Exhibit B

FWC Papers from W:/ Drive

U.S. PTO Check Request Form for  
\$2240 Filing Fee for Second FWC

Exhibit C

Docketing Department's February 10, 1997  
Entries of Papers being Filed

Exhibit D

Copy of Firm's Checkbook Showing  
Issuance of Check for \$2480

Exhibit E

Notification of Defective Notice of Appeal  
or  
Defective Brief issued June 19, 1997

Exhibit F

Examiner Interview Summary Record

Exhibit G

Request to Withdraw the Holding of  
Abandonment filed May 16, 2001

Docket No. 0392.1290C

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

KAMIGUCHI, MASAO

Serial No.: 08/154,126

Filed: November 18, 1993

For: PRESSURE WAVEFORM SETTING METHOD FOR  
INJECTION PRESSURE CONTROL AND AN  
INJECTION MOLDING MACHINE

Group Art Unit:

Examiner:

DECLARATION OF VICTOR DEL RIO

Honorable Commissioner  
of Patents & Trademarks  
Washington, D. C. 20231

Sir:

I, VICTOR DEL RIO, declare that:

1. I have been employed in the Docketing Department of the firm of Staas & Halsey since July 21, 1997, and my title is Manager of Docketing Department.

2. I am directly responsible for docketing all incoming USPTO correspondence, and for making note of such correspondence and the due date for any response due, by the Docketing Department.

3. During the regular course of business, the USPTO mail received at Staas & Halsey is first opened and date-stamped, and separated into a specific file. The USPTO mail file is then passed directly to me in the Docketing Department. I check each piece of USPTO mail against our Docketing database by docket number and serial number. Any USPTO correspondence which requires a response is docketed in our Docketing database. Only then is the correspondence passed to the responsible attorney.

4. Attached hereto are copies of the pertinent manual docket cards which were used by the Firm at the time of the transactions in question. According to the Docketing Department's records, a Request to Withdraw the Withholding of Abandonment was filed May 15, 2001 (attached to Petition as Exhibit G). According to our records, no response to this request has been received.

SN 08/154,126

- 2 -

Docket No. 0392.1290C

5. I further declare that all statements made herein of my knowledge are true, and all statements made herein on information and belief are believed to be true; and further that these statements have been made with the knowledge that willful false statements and the like so made punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statement may jeopardize the validity of this application and any patent issuing hereon.



VICTOR DEL RIO  
( Docketing Manager)

Date: September 12, 2003

Docket Number: 392.1290/JEH

WMS

Client Ref: FFA-910

Client: AIWA

Applicant: Masao Kamiguchi, et al.

Serial Number: 07 930404

Filing Date: 9/14/92

Title: A PRESSURE WAVEFORM SETTING METHOD FOR INJECTION PRESSURE CONTROL AND  
Assignment To: AN INJECTION MOLDING MACHINE

Recorded: 9-14-92

4pg

Reel: 6447 Frame: 805

Office Actions

5-4-93 Resp due 8-4-93

8-18-93 Final Resp / NoA due 11-18-93

S&H Response9-4-93 - Amdt., IDS, PTO 1449,  
\$200.00.11-18-93 Fwc Appln. extra claims  
w/ck 932. prel. Ament.

Allowed:

Issue Fee:

Patent Date:

Patent Number:



Docket Number: 392.1290CC/WMS

Client Ref: FFA-910

Client: AIWA INTERNATIONAL PATENT AGENCY

Applicant: Masao KAMIGUCHI et al.

Group:

Serial No:

Filing Date: February 10, 1997

Title: PRESSURE WAVEFORM SETTING METHOD FOR INJECTION  
PRESSURE CONTROL AND AN INJECTION MOLDING MACHINE

Assignment to: FANUC LTD.

Reel: Frame:

Recorded:

Office Actions

S&H Response

Allowed:  
Issue Fee:

Patent Date:  
Patent Number:

Exhibit B

## REQUEST FORM FOR FILING A PATENT APPLICATION UNDER 37 C.F.R. 1.62

DOCKET NUMBER	ANTICIPATED CLASSIFICATION OF THIS APPLICATION		PRIOR APPLICATION EXAMINER	ART UNIT
392.1290CC	CLASS	SUBCLASS	J. Heitbrink	1307

Address to: Assistant Commissioner for Patents  
Box FWC  
Washington, D.C. 20231

This is a Request for filing a ☐ continuation-in-part, ☒ continuation, ☐ divisional application under 37 CFR 1.62 of prior application Number 08/154,126, filed on November 18, 1993 entitled PRESSURE WAVEFORM SETTING METHOD FOR INJECTION PRESSURE CONTROL AND AN INJECTION MOLDING MACHINE by the following named inventor(s):

FULL NAME OF INVENTOR	FAMILY NAME KAMIGUCHI	FIRST GIVEN NAME Masao	SECOND GIVEN NAME
RESIDENCE & CITIZENSHIP	CITY Yamanashi	STATE OR FOREIGN COUNTRY Japan	COUNTRY OF CITIZENSHIP Japan
POST OFFICE ADDRESS	POST OFFICE ADDRESS - CITY - STATE & ZIP CODE/COUNTRY Room 6-207, FANUC Manshonharimomi, 3537-1, Shibokasu, Oshino-Mura, Minamitsuru-gun, Yamanashi 401-5, Japan*		
FULL NAME OF INVENTOR	FAMILY NAME NEKO	FIRST GIVEN NAME Noriaki	SECOND GIVEN NAME
RESIDENCE & CITIZENSHIP	CITY Yamanashi	STATE OR FOREIGN COUNTRY Japan	COUNTRY OF CITIZENSHIP Japan
POST OFFICE ADDRESS	POST OFFICE ADDRESS - CITY - STATE & ZIP CODE/COUNTRY FANUC Dai3virakaramatsu, 3527-1, Shibokasu, Oshino-Mura, Minamitsuru-gun, Yamanashi, 401-5, Japan		


☐ Additional inventors are being named on a separate sheet attached hereto.

The above identified prior application in which no payment of the issue fee, abandonment of, or termination of proceedings has occurred, is hereby expressly abandoned under 37 CFR 1.62(g) as of the filing date of this new application. Please use all the contents of the prior application file wrapper, including the drawings, as the basic papers for the new application. (No new specification is required.) (note: 37 CFR 1.60 may be used for applications where the prior application is not to be abandoned.)

- ☐ Enter the unentered amendment previously filed on \_\_\_\_\_ under 37 CFR 1.118 in the prior application.
- ☐ A preliminary amendment is enclosed.

The filing fee is calculated on the basis of the claims existing in the prior application as amended at 1 and 2 above.

CLAIMS	(1) FOR	(2) NUMBER FILED	(3) NUMBER EXTRA	(4) RATE	(5) CALCULATIONS
	TOTAL CLAIMS	12 - 20 =	0	X \$ 22.00 =	\$ 0.00
	INDEPENDENT CLAIMS	6 - 3 =	3	X \$ 80.00 =	240.00
	MULTIPLE DEPENDENT CLAIMS (if applicable)			+ \$260.00 =	0.00
				BASIC FEE	+ 770.00
				Total of above Calculations =	1010.00
	Reduction by 50% for filing by small entity (Note 37 CFR 1.9, 1.27, 1.28).				

		TOTAL = \$ 1010.00
---	--	--------------------

3. ☐ A verified statement to establish small entity status under 37 CFR 1.9 and 1.27  
☐ is enclosed.

☐ was filed in the prior application and such status is still proper and desired (37 CFR 1.28(a)).

**FORM FOR FILING A PATENT APPLICATION UNDER 37 CFR 1.62, Page 2)** **(REQUEST**

4. ☒ Authorization is hereby given to charge to Deposit Account No. 19-3935 any fees under 37 CFR 1.16 and 1.17 which may be required in the immediate parent application for any petition for extension of time or as may otherwise be required for maintaining the pendency of same, so that a filing date for the subject Rule 62 application can be granted, and to consider this a Petition for Extension of Time for that purpose. Authorization is also given to charge to Deposit Account No. 19-3935 any fees under 37 CFR 1.16 and 1.17 required for filing the subject Rule 62 application, or to credit thereto any overpayment.

5. ☒ A check in the amount of \$ 1010.00 is enclosed.

6. ☐ A new oath or declaration in compliance with 37 CFR 1.63 is included since this application is a continuation-in-part which discloses and claims additional matter.

7. ☒ Amend the specification by inserting before the first line the sentence:

This application is a ☐ continuation-in-part, ☒ continuation, ☐ division, of application number 08/154,126, filed November 18, 1993, now abandoned, which is a continuation of application serial no. 07,930,404, filed September 14, 1992, now abandoned.

8. ☐ Priority of foreign application number \_\_\_\_\_, filed on \_\_\_\_\_ in (country) \_\_\_\_\_ is claimed under 35 U.S.C. 119.

9. ☒ The prior application is assigned of record to FANUC LTD.

10. ☒ The power of attorney in the prior application is to: (name & address)  
James D. Halsey, et al., STAAS & HALSEY, 700 Eleventh Street, N.W., Suite 500, Washington, D.C. 20001.

11. ☒ Also enclosed: Petition three month extension of time

Address all future correspondence to: (May only be completed by applicant, or attorney or agent of record)

**STAAS & HALSEY**  
 700 Eleventh Street, N.W.  
 Suite 500  
 Washington, D.C. 20001  
 Telephone: (202) 434-1500  
 Facsimile: (202) 434-1501

It is understood that secrecy under 35 U.S.C. 122 is hereby waived to the extent that if information or access is available to any one of the applications in the file wrapper of a 37 CFR 1.62 application, be it either this application or a prior application in the same file wrapper, the Patent and Trademark Office may provide similar information or access to all the other applications in the same file wrapper.

February 10, 1997

William M. Schertler, Registration No. 35,348

Date

(Typed or printed name of person signing)

- ☐ Inventor(s)
- ☐ Assignee of complete interest
- ☐ Attorney or agent of record
- ☒ Filed under 37 CFR 1.34(a)

(Signature)

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of :  
 :  
 Masao KAMIGUCHI et al. :  
 :  
 Serial No.: 08/154,126 : Group Art Unit: 1307  
 :  
 Filed: November 18, 1993 : Examiner: J. Heitbrink

For: PRESSURE WAVEFORM SETTING METHOD FOR INJECTION  
 PRESSURE CONTROL AND AN INJECTION MOLDING MACHINE

PETITION AND FEE FOR EXTENSION OF TIME

Assistant Commissioner for Patents  
 Washington, D.C. 20231

Dear Sir:

Further to the Notice of Appeal filed on August 10, 1996, the Patent Office set a two month shortened statutory period for response for filing an Appeal Brief to expire on October 10, 1996. Since no extensions have been obtained, the response date is still October 10, 1996.

Also, pursuant to Rule 136(a), Applicants hereby petition the Commissioner for an extension of time into the fourth month after the response due date, e., until February 10, 1997, for responding to the Office Action.

A check for the appropriate fee set by 37 C.F.R. §1.17 of \$1,470.00 is attached hereto for this Petition.

The Commissioner is authorized to charge any Petition for Extension of Time fee for underpayment or credit any overpayment to Deposit Account No. 9-3935.

☐ An Amendment is filed concurrently.  
☒ A Continuation Application is filed herewith.  
☐ A Divisional Application is filed herewith.  
☐ A Continuation-In-Part Application is filed herewith.  
☐ "Small Entity" status for this application has been established by a verified statement submitted herewith.  
☐ Notice of Appeal.  
☐ Appeal Brief.  
☐ Other: \_\_\_\_\_

A one-month extension is \$110; a two-month extension is \$390; a three-month extension is \$930; and a four-month extension, if available, is \$1,470.

Respectfully submitted,

STAAS & HALSEY

TAAS & HALSEY  
 70 11th Street, N.W.  
 Washington, D.C. 20001  
 (202) 434-1500

By

<sup>\*</sup>William M. Schertler  
 Registration No. 35,348

Dated February 10, 1997

PTO CHECK REQUEST FORM

Date: 2/10/97

Docket No.: 392.1290CC/WMS

Requested by: WMS/dcp

Fee Description:

Amount Billed

in Advance: \$ \_\_\_\_\_

Fee Description:

Amount to be

Billed: \$2240.00

FWC Filing Fee: \$ 770.00

4-MEOT 1470.00

TOTAL AMOUNT OF CHECK: \$2240.00

Exhibit C

5000 SERIES  
30% P.C.W.





10-97 Shinohara et al 237404  
Amend (1.116)  
(MAIL)

2-8-97  
522.1693C/PFD

2-10-97 Horie et al 274746  
Amend, 2mthreot  
w/ck \$390  
(Hand-Carry 2-10-97)

2-9-97  
614.1629/RIS/PAE

~~10-97 KANEKAWA et al~~  
~~Amend, 2mthreot~~  
~~w/ck \$390~~  
~~(Hand-Carry 2-10-97)~~

~~2-10-97~~  
~~392.139006/DMP~~

10-97 TAKESHITA 550368  
Amend, w/ck  
(cert of mail)

3-13-97  
305-1632/MST

11-97 Sasaki et al 070889  
supplement to the  
IRL Supplement Reply Brief

1081.1003/TEM

11-97 HIRAGAWA 6586151  
IRL COC 71050 (dupl.)

614.1367/HJS

11-97 Kaneko et al 745835  
cert copy Prior  
IRL Foreign Appn (2 refs)

AZAP  
862.1302/DMP

11-97 TM: GALAXY 1634685  
IRL Nr. Affidavit  
sect 8a15 w/decl w/ck \$200 -  
envelope (6) SPECIMENS

2-12-97  
33.2069/DMP

224

10-97 Masaki et al 653973 2-10-97  
Amend w/ 1 mth 1071.1035C/GMG  
pot w/ck \$110 ✓

2-10-97 Takezaki 037377 2-9-97  
Amend, 2 mth 522.1940/RJS/RAG  
pot w/ck \$390, ✓  
Ltr., drug chge  
req. to Fig. 7A & 8A

2-10-97 TM: Guardian 1,648,687 6-24-97  
Ltr., affidavit 332071/DMP  
of use (sect. 8 & 15)  
w/decl, w/ck \$200 ✓  
(1) envelope w/ (3) specimens

2-10-97 Sugaya et al 760371 A-SAP  
submis. of cert. copy 1134.1260/DMP  
of Prior Foreign Appln  
(3 refs), IDS, 1449 w/ attach  
1(d) & 1(e), (8 refs)

1-10-97 Ho et al 2-11-97  
PCT Appln, verif. Transl, 392.1483/JDH  
PCT Req., Decl. Ass'n, ✓  
Prelim. Amend, Intern'l  
Appln (as filed in Japan)  
copy of priority doc as  
orig. filed (in Japanese)  
IDS w/ck \$950 ✓

1-10-97 Obata et al 730268 2-12-97  
IDS, 1449 (6 refs) 1083.1023/JDH

Date	Case Name	Case No.	Case No.
2-10-97	Bayer et al	180106	3-24-97
DA	IDS, 1449 (1 ref)		1087.1003/IDA
2-10-97	Bayer et al	700375	2-8-97
DA	Mr., Eng. Transl., Decl, assmt, Prel. Amend, verif. 6 ltrts (2), orig certif of Inheritance, Transl Decl, Trans. certif of inherit. Req. for Refund, copy of PCT/05/EO/905, 3mth EOT, W/CK \$465, W/CK \$235 ✓		477.1019/JHM
2-10-97	Norton	29/033,203	2-9-97
DA	Amendment		782.1025/JCG
2-10-97	Refuse	29/033,194	2-9-97
DA	Amendment		782.1026/JCG
2-10-97	Rough	29/034,430	2-9-97
DA	Amendment		782.1027/JCG
2-10-97	Meade	29/033,232	2-9-97
DA	Amendment		782.1028/JCG
2-10-97	Takeshita)	612,163	2-27-97
DA	Resp. to Restrict. Require.		614.1725/HJS
2-10-97	Manuki et al	662299	2-10-97
DA	IFW/CK \$1290 ✓		122.1067 CC/JHM
2-10-97	Koike et al	362955	2-14-97
DA	IFW/13 shts Frads W/CK \$1290 ✓		1185.1003/MUN

2-7-97 Julia 782388

14r. (2pp), Prelim.

1068.103DC/WFH

Amend (3pp w/ the

random house dictionary  
of the English language  
(second edition) (4pps)).

-7-97 Seki et al 028613

Amend 3m the ext

2-7-97

21.1540C/RAG

w/ck \$930 (Reg for  
Exam. interview)

-10-97 Nishino et al 351213

Filing comments  
on Stmt of reasons  
for allowance

122.1164/HJS

10-97 Hand Carry COPY to Group 2101

Kai 519644

3-19-97

Amend. (1.116)

1134.119/HBW

0-97 Wata et al 761182

Prelim. Amend (6pps)

862.138C/GPJ

10-97 Wata et al 371322

2-28-97

Amend. (1)x

1134.1038/HBW

Indep Clms w/ck \$80 ✓

Exhibit D

2/10 19 97

TO ~~DEPOSIT~~

FOR ~~123 1193~~

3 MEOT 1 TOTAL

THIS CHECK 9300

OTHER TRANS. +

TAX DEDUCTIBLE ☐

BALANCE

47142

2/11 19 97

TO ~~DEPOSIT~~

FOR ~~1162 9155~~

2 EOT TOTAL

THIS CHECK 390 00

OTHER TRANS. +

TAX DEDUCTIBLE ☐

BALANCE

~~47142~~

2/10 19 97

TO ~~DEPOSIT~~

FOR ~~1162 9155~~

3 MEOT 1 TOTAL

THIS CHECK 9300

OTHER TRANS. +

TAX DEDUCTIBLE ☐

BALANCE 6127 90

Mar-24-04 12:33pm From:STAAS & HALSEY

202 434 1501

T-324 P.026/037 F-469

Exhibit E

UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark OfficeAddress: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/154,126	11/18/93	KAMIGUCHI M	392.12906

STAAS & HALSEY  
700 ELEVENTH ST. N.W. SUITE 500  
WASHINGTON DC 20001

A3M1/0619

EXAMINER  
HEITBRINK, J

ART UNIT	PAPER NUMBER
1307	24

DATE MAILED: 06/19/97

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks





UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

08/154,126

11/18/93

KAMISAWA

SERIAL NUMBER	FILING DATE	APPLICANT	ATTORNEY DOCKET NO.
STAAS & HALSEY		HEITER, JR.	
700 ELEVENTH ST. N.W. SUITE 500			
WASHINGTON DC 20001			

1307 EXAMINER

06/19/97

ART UNIT

PAPER NUMBER

24

DATE MAILED:

### NOTIFICATION OF DEFECTIVE NOTICE OF APPEAL OR DEFECTIVE BRIEF

1. ☐ The Notice of Appeal filed \_\_\_\_\_ is:

A. ☐ Not acceptable for reason(s) that:

- (1) ☐ The Appeal fee required by 35 U.S.C. 41 (a)(6) and 37 CFR 1.17(e) was not submitted with the Notice of Appeal.
- (2) ☐ The submitted fee of \$ \_\_\_\_\_ is insufficient. The appeal fee required by 37 CFR 1.17(e) is \$ \_\_\_\_\_.
- (3) ☐ The Notice of Appeal was not timely filed.
- (4) ☐ The Appeal fee received on \_\_\_\_\_ was not timely filed.
- (5) ☐ The Appeal is not in compliance with 37 CFR 1.191 in that the claims have not been finally or twice rejected.
- (6) ☐ A Notice of Allowability was mailed by the Office on \_\_\_\_\_.

B. ☐

Defective and should be corrected as indicated. Applicant is given a TIME LIMIT of ONE MONTH from the date of this letter OR the TIME REMAINING IN THE RESPONSE PERIOD OF THE LAST OFFICE ACTION, whichever is longer, to complete the appeal. NO EXTENSION OF THIS ONE MONTH PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a) or (b) BUT THE PERIOD FOR RESPONSE SET IN THE LAST ACTION MAY POSSIBLY BE EXTENDED. If the appeal is not timely completed, the application will be abandoned.

- (1) ☐ The Notice of Appeal is not signed.
- (2) ☐ Identification of the appealed claim or claims is required under 37 CFR 1.191 (b).

2. ☐ The Brief filed \_\_\_\_\_ is NOT acceptable for the reason(s) indicated below.  
The Appeal in this application will be dismissed unless the applicant makes the Brief acceptable. Extensions of time may be obtained under 37 CFR 1.136(a).

- A. ☐ The Brief and/or Brief fee is untimely. See 37 CFR 1.192.  
B. ☐ The requisite fee which must accompany the Brief has been omitted. See 37 CFR 1.17(f).  
C. ☐ The submitted Brief fee of \_\_\_\_\_ is not the proper amount. The Brief fee required by 37 CFR 1.17(f) is \_\_\_\_\_.

3. ☒ The Appeal in this application is DISMISSED because

- A. ☐ The fee for filing the Brief as required under 37 CFR 1.17(f) was not submitted or timely submitted and the period for obtaining an extension of time to file the brief under 37 CFR 1.136 has expired.  
B. ☒ The Brief was not filed, or was not timely filed and the period for obtaining an extension of time to file the brief under 37 CFR 1.136 has expired.

4. ☒ As the result of the dismissal in "3" above, this application:

- A. ☒ is abandoned since ~~there are no allowed claims.~~ *applicants have stated that a FWC was filed.*  
B. ☐ is being returned to the examiner for disposition since it contains allowed claims. Prosecution on the merits is CLOSED.

*Jill L. Heitbrink*  
JILL L. HEITBRINK

Exhibit F


**UNITED STATES DEPARTMENT OF COMMERCE**  
**Patent and Trademark Office**

 Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
 Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
08/154,126	11/18/93	KAMIGUCHI	M 392.1290C

A3M1/0619

 STAAS & HALSEY  
 700 ELEVENTH ST. N.W. SUITE 500  
 WASHINGTON DC 20001

 EXAMINER  
 HEITHRINK, J

 ART UNIT 1307  
 PAPER NUMBER 23

DATE MAILED: 06/19/97

**EXAMINER INTERVIEW SUMMARY RECORD**

All participants (applicant, applicant's representative, PTO personnel):

 (1) Mr. William Schertler (3) \_\_\_\_\_  
 (2) Ms. Jill Heithrunk (4) \_\_\_\_\_
Date of interview 4/2/97Type: ☒ Telephonic ☐ Personal (copy is given to ☐ applicant ☐ applicant's representative).Exhibit shown or demonstration conducted: ☐ Yes ☒ No. If yes, brief description: \_\_\_\_\_Agreement ☐ was reached with respect to some or all of the claims in question. ☐ was not reached.

Claims discussed: \_\_\_\_\_

Identification of prior art discussed: \_\_\_\_\_

 Description of the general nature of what was agreed to if an agreement was reached, or any other comments: Applicants state  
that a FWC with a 4 month extension of time  
was filed on Dec 10, 1997.

(A fuller description, if necessary, and a copy of the amendments, if available, which the examiner agreed would render the claims allowable must be attached. Also, where no copy of the amendments which would render the claims allowable is available, a summary thereof must be attached.)

☒ 1. It is not necessary for applicant to provide a separate record of the substance of the interview.

Unless the paragraph below has been checked to indicate to the contrary, A FORMAL WRITTEN RESPONSE TO THE LAST OFFICE ACTION IS NOT WAIVED AND MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW (e.g., items 1-7 on the reverse side of this form). If a response to the last Office action has already been filed, then applicant is given one month from this interview date to provide a statement of the substance of the interview.

☐ 2. Since the examiner's interview summary above (including any attachments) reflects a complete response to each of the objections, rejections and requirements that may be present in the last Office action, and since the claims are now allowable, this completed form is considered to fulfill the response requirements of the last Office action. Applicant is not relieved from providing a separate record of the substance of the interview unless box 1 above is also checked.

Exhibit G

Please return this card, indicating receipt date and Serial No., if applicable, of the following  
Request to Withdraw Holding of Abandonment, copy of MPEP 1215.04

Masoa KAMAGUCHI et al.

Applicant(s): PRESSURE WAVEFORM SETTING....

Title: 08/154,126

Serial No.: November 16, 1993

Filing Date: 392.1290C

Docket No.: N/A

Doc Date:



Docket No. 392.1290C

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Masoa KAMIGUCHI ET AL.

Serial No. 08/154,126

Filed: November 18, 1993

Group Art Unit: 2742

Examiner: D. Hunter

For: PRESSURE WAVEFORM SETTING METHOD FOR AN INJECTION PRESSURE  
CONTROL AND AN INJECTION MOLDING MACHINE

REQUEST TO WITHDRAW HOLDING OF ABANDONMENT

Assistant Commissioner of Patents  
Washington, D.C. 20231

Sir:

Upon contacting the U.S. PTO regarding the status of the above-referenced patent application, applicants representatives were informed that this application had an abandoned status. However, a Notice of Appeal was filed, along with a Petition for three-month extension of time, on August 9, 1996 rejection of claims 1-3 and 9-12.

In accordance with MPEP §1215.04, if no brief is filed within the time prescribed by 37 CFR 1.192, the appeal stands dismissed. If claims stand allowed in the application, the failure to file a brief is to be treated as withdrawal of the appeal and of any claim not standing allowed. *"The application should be passed to issue forthwith."* A copy of MPEP §1215.04 is attached. In this application, claims 4-8 stand allowed.

Accordingly, the abandonment of this application should be withdrawn, and a Notice of Allowance issued.

Serial No.: 08/992,341

Docket No.: 782.1015-C/WMS

If there are any additional fees required in connection with filing this paper, please charge same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY

By: William M. Scherler  
William M. Scherler  
Registration No. 35,348

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Suite 500  
Washington, D.C. 20001  
(202) 434-1500

Date: May 13, 2001



1215

## MANUAL OF PATENT EXAMINING PROCEDURE

Board's decision, has been rescinded, repealed, or overruled.

Such petitions will not be ordinarily entertained after the filing of the Commissioner's brief in cases in which review has been sought under 35 U.S.C. 141, or after trial in a 35 U.S.C. 145 case.

In the case of an appeal under 35 U.S.C. 141, if the petition is granted, steps will be taken to request the court to remand the case to the Patent and Trademark Office. If so remanded, the proposed amendments, evidence, and arguments will be entered of record in the application file for consideration, and further action will be taken by the Board in the first instance or by the examiner as may be appropriate. In the case of civil action under 35 U.S.C. 145, steps will be taken for obtaining dismissal of the action without prejudice to consideration of the proposals.

## 1215 Withdrawal or Dismissal of Appeal

### 1215.01 Withdrawal of Appeal

Except in those instances where a withdrawal of an appeal would result in abandonment of the application, an attorney not of record in an application may file a paper under 37 CFR 1.34(a) withdrawing an appeal. In such instances where no allowable claims appear in the application, the withdrawal of an appeal is in fact an express abandonment and does not comply with 37 CFR 1.138 except where a continuing application is being filed on the same date.

Where, after appeal has been filed and before decision by the Board, an applicant withdraws the appeal after the period for reply to the final rejection has expired, the application is to be considered abandoned as of the date on which the appeal was withdrawn unless there are allowed claims in the case.

Where a letter abandoning the application is filed in accordance with 37 CFR 1.138, the effective date of abandonment is the date of recognition of the letter by an appropriate official of the Office or a different date, if so specified in the letter itself. See MPEP § 711.01.

If a brief has been filed within the time permitted by 37 CFR 1.192 (or any extension thereof) and an answer mailed and appellant withdraws the appeal, the application is returned to the examiner.

To avoid the rendering of decisions by the Board in applications which have already been refiled as continuations, applicants should promptly inform the clerk of the Board in writing as soon as they have positively decided to refile or to abandon an application containing an appeal awaiting a decision. Failure to exercise appropriate diligence in this matter may result in the Board's refusing an otherwise proper request to vacate its decision.

Applications having no allowed claims will be abandoned. Claims which are allowable except for their dependency from rejected claims will be treated as if they were rejected. The following examples illustrate the appropriate approach to be taken by the examiner in various situations:

(A) Claim 1 is allowed; claims 2 and 3 are rejected. The examiner should cancel claims 2 and 3 and issue the application with claim 1 only.

(B) Claims 1 - 3 are rejected. The examiner should hold the application abandoned.

(C) Claim 1 is rejected and claim 2 is objected to as being allowable except for its dependency from claim 1. The examiner should hold the application abandoned.

(D) Claim 1 is rejected and claim 2 is objected to as being allowable except for its dependency from claim 1; independent claim 3 is allowed. The examiner should cancel claims 1 and 2 and issue the application with claim 3 only.

### 1215.02 Claims Standing Allowed

If the application contains allowed claims, as well as claims on appeal, the withdrawal of the appeal does not operate as an abandonment of the application, but is considered a withdrawal of the appeal as to those claims and authority to the examiner to cancel the same. An amendment canceling the appealed claims is equivalent to a withdrawal of the appeal.

### 1215.03 Partial Withdrawal

A withdrawal of the appeal as to some of the claims on appeal operates as an authorization to cancel those claims from the application and the appeal continues as to the remaining claims. The withdrawn claims will be canceled from an application by direction of the examiner at the conclusion of the appeal proceedings, if necessary (e.g., the examiner is reversed as to the rejection of the remaining claims on appeal), without further action by the applicant.

### 1215.04 Dismissal of Appeal

If no brief is filed within the time prescribed by 37 CFR 1.192, the appeal stands dismissed by operation of the rule. Form PTOL-461 "Notification of Defective Notice of Appeal or Defective Brief," or form paragraph 12.17 notifying the appellant that the appeal stands dismissed is not an action in the case and does not start any period for reply. If no claims stand allowed, the application is considered as abandoned on the date the brief was due. If claims stand allowed in the application, the failure to file a brief and consequent dismissal of the appeal is to be treated as a withdrawal of the appeal and of any claim not standing allowed. The application should be passed to issue forth-

## APPEAL

1216

with. Unless appellant specifically withdraws the appeal as to rejected claims, the appeal should not be dismissed until the extended period (5 months under 37 CFR 1.136(a)) to file the brief has expired.

Applications having no allowed claims will be abandoned. Claims which are allowable except for their dependency from rejected claims will be treated as if they were rejected. The following examples illustrate the appropriate approach to be taken by the examiner in various situations:

(A) Claim 1 is allowed; claims 2 and 3 are rejected. The examiner should cancel claims 2 and 3 and issue the application with claim 1 only.

(B) Claims 1 - 3 are rejected. The examiner should hold the application abandoned.

(C) Claim 1 is rejected and claim 2 is objected to as being allowable except for its dependency from claim 1. The examiner should hold the application abandoned.

(D) Claim 1 is rejected and claim 2 is objected to as being allowable except for its dependency from claim 1; independent claim 3 is allowed. The examiner should cancel claims 1 and 2 and issue the application with claim 3 only.

However, if formal matters remain to be attended to, the examiner should take appropriate action on such matters, setting a shortened period for reply, but the application is to be considered closed to further prosecution except as to such matters. Form paragraph 12.09.01 may be used for this purpose. See MPEP § 1206.

An appeal will also be dismissed if an applicant fails to timely and fully reply to a notice of noncompliance with 37 CFR 1.192(c). See MPEP § 1206 and 37 CFR 1.192(d). As in examples (B)-(C) above, if no allowed claims remain in the application, the application is abandoned as of the date the reply to the notice was due. The applicant may petition to revive the application as in other cases of abandonment, and to reinstate the appeal. If the appeal is dismissed, but allowed claims remain in the application, as in examples (A) and (D) above, the application is not abandoned; to reinstate the claims cancelled by the examiner because of the dismissal, the applicant must petition to reinstate the claims and the appeal, but a showing equivalent to a petition to revive under 37 CFR 1.137 is required. In either event, a proper reply to the notice of noncompliance must be filed before the petition will be considered on its merits.

## 1216 Judicial Review [R-1]

### 35 U.S.C. 141. Appeal to Court of Appeals for the Federal Circuit.

\*\* >An applicant dissatisfied with the decision in an appeal to the Board of Patent Appeals and Interferences under section 134 of this title may appeal the decision to the United States Court of Appeals for the Fed-

eral Circuit. By filing such an appeal the applicant waives his or her right to proceed under section 145 of this title. A patent owner in any reexamination proceeding dissatisfied with the final decision in an appeal to the Board of Patent Appeals and Interferences under section 134 may appeal the decision only to the United States Court of Appeals for the Federal Circuit. A party to an interference dissatisfied with the decision of the Board of Patent Appeals and Interferences on the interference may appeal the decision to the United States Court of Appeals for the Federal Circuit, but such appeal shall be dismissed if any adverse party to such interference, within twenty days after the appellant has filed notice of appeal in accordance with section 142 of this title, files notice with the Commissioner that the party elects to have all further proceedings conducted as provided in section 146 of this title. If the appellant does not, within thirty days after filing of such notice by the adverse party, file a civil action under section 146, the decision appealed from shall govern the further proceedings in the case.

### 35 U.S.C. 145. Civil action to obtain patent.

An applicant dissatisfied with the decision of the Board of Patent Appeals and Interferences in an appeal under section 134(a) of this title, may, unless appeal has been taken to the United States Court of Appeals for the Federal Circuit, have remedy by civil action against the Commissioner in the United States District Court for the District of Columbia if commenced within such time after such decision, not less than sixty days, as the Commissioner appoints. The court may adjudge that such applicant is entitled to receive a patent for his invention, as specified in any of his claims involved in the decision of the Board of Patent Appeals and Interferences, as the facts in the case may appear and such adjudication shall authorize the Commissioner to issue such patent on compliance with the requirements of law. All the expenses of the proceedings shall be paid by the applicant.

### 35 U.S.C. 146. Civil action in case of interference.

Any party to an interference dissatisfied with the decision of the Board of Patent Appeals and Interferences, may have remedy by civil action, if commenced within such time after such decision, not less than sixty days, as the Commissioner appoints or as provided in section 141 of this title, unless he has appealed to the United States Court of Appeals for the Federal Circuit, and such appeal is pending or has been decided. In such suits the record in the Patent and Trademark Office shall be admitted on motion of either party upon the terms and conditions as to costs, expenses, and the further cross-examination of the witnesses as the court imposes, without prejudice to the right of the parties to take further testimony. The testimony and exhibits of the record in the Patent and Trademark Office when admitted shall have the same effect as if originally taken and produced in the suit.

Such suit may be instituted against the party in interest as shown by the records of the Patent and Trademark Office at the time of the decision complained of, but any party in interest may become a party to the action. If there be adverse parties residing in a plurality of districts not embraced within the same state, or an adverse party residing in a foreign country, the United States District Court for the District of Columbia shall have jurisdiction and may issue summonses against the adverse parties directed to the marshal of any district in which any adverse party resides. Summonses against adverse parties residing in foreign countries may be served by publication or otherwise as the court directs. The Commissioner shall not be a necessary party but he shall be notified of the filing of the suit by the clerk of the court in which it is filed and shall have the right to intervene. Judgment of the court in favor of the right of an applicant to a patent shall authorize the Commissioner to issue such patent on the filing in the Patent and Trademark Office of a certified copy of the judgment and on compliance with the requirements of law.